

50906



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of	:	PATENT
	:	
Jens Laurvig HAUGAARD	:	
	:	
Serial No.: 10/570,764	:	Art Unit: 3753
	:	
Filed: August 22, 2006	:	Examiner: J. C. Fox
	:	
For: CONSTRUCTION-KIT SYSTEM	:	Appeal No. _____

REPLY BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. § 41.41, Applicant-Appellant submits the following Reply Brief in response to the July 2, 2009 Examiner's Answer in connection with the appeal of the above-identified application.

New Rejection

The application of the cited patent in the rejection stated on pages 3-5 of the Examiner's Answer differs substantially from that presented in the September 12, 2008 final rejection. For example, the embodiment of the Stumpmeier patent illustrated in Figs. 17-20 is now relied upon for the first time. Additionally, the Stumpmeier valves 5 are also cited and relied upon for the first time. In essence, a new ground of rejection is raised in the Examiner's Answer, even though the same Stumpmeier patent is relied upon in the rejection.

Claim 9 is Patentably Distinguishable Over the Stumpmeier Patent

In the current rejection, the Stumpmeier transverse bores are equated to the claimed first group of connecting lines, while the Stumpmeier channels F, T, A, P, B are equated to the second group of connecting lines of claim 9. The Stumpmeier channels are allegedly connected “to a common point at the most remote, or indeed any, of the lines 8 of the first group” (page 3, last three lines, of the Examiner’s Answer).

In the pending application, line 16 provides the connecting line of the first group connecting all lines in fluid communication at one point. Relative to this claimed feature, the Examiner now relies upon a Stumpmeier transverse bore 8. However, such transverse bore is not empty, as shown, for example, in Fig. 8, but is filled with distributed modules, as illustrated in Fig. 3. Such modules provide various restricted connections so as not to provide first and second groups of connecting lines connected in fluid communication at one point by a connecting of the first group, as recited in claim 9. No specific example, as disclosed in the Stumpmeier patent Fig. 3 or as being obvious from the Stumpmeier patent, is set forth by the Examiner to demonstrate that this feature of claim 9 is disclosed or rendered obvious by the Stumpmeier patent alone. A specific example based on the teachings of the Stumpmeier patent is required to establish a *prima facie* case of obviousness. The absence of such example from the statement of the rejection demonstrates that the rejection is untenable and should be reversed.

The disclosure in the Stumpmeier patent in col. 2, lines 45-57 of the Stumpmeier channels being optionally interconnected or blocked by distributor modules does not render the claimed invention obvious. Such disclosure does not disclose connecting all of the lines, as recited in claim 9. Clearly, no specific analysis showing this feature is provided in the Examiner’s Answer or elsewhere in the prosecution history.

The Stumpmeier valves 5 and the various distributor modules 20, 22, 24, 27, 31 and 32 are apparently alternatively relied upon as meeting the claim recitations relating to at least three first dummy components for receiving definable valve components connected to connecting lines of the second group and at least two second dummy components connected to a common connecting line of the second group and another associated connecting line of the second group. The Examiner only appears to refer to the general description of the Stumpmeier patent without addressing the specific recitations of the three first dummy components and the two second dummy components, particularly as those dummy components are connected to the specifically recited connecting lines. Relative to the distributor modules, modules 20, 22, 24 and 27 clearly do not receive valve components. While check valve components are provided in distributor modules 31 and 32 (illustrated in Figs. 12 and 13) of the Stumpmeier patent, such valves are not shown or disclosed to be located as recited for the three first dummy components and the two second dummy components recited in claim 9. The examples of Figs. 3 and 5 of the Stumpmeier patent cited on page 4 of the Examiner's Answer do not contain any valve parts.

Regarding module 22, such module is illustrated in Fig. 9 and does not provide any connection between the flow in the transverse bore 8 in which it is located and any of the five channels of the Stumpmeier patent. Such distributor module is illustrated in Fig. 9, and clearly shows the absence of any fluid connection by the lack of any dot between the two perpendicular lines. Specifically, module 22 does not connect channel A to transverse bore 8 or channel P to transverse bore 8 in the Stumpmeier device, as alleged.

If the Stumpmeier valves 5 are additional components attached to the external side of the manifold, as alleged in the last paragraph on page 5 of the Examiner's Answer, they provide nothing to this structure recited in claim 9. If they are alleged to be dummy components, they are

only mounted on and in fluid communication with a single channel and are not connected in the manner recited in the last two paragraphs of claim 9.

In the first full paragraph on page 6 of the Examiner's Answer, the Examiner alleges that the valve base of the Stumpmeier patent can be modified by using different distributor modules to create innumerable different circuits which render the claimed invention obvious. However, the failure to identify a specific arrangement of the modules in a manner alleged to produce the specifically claimed structure shows that the rejection is untenable. Moreover, no suggestion or reason, other than that taken from the present application, is provided to support the allegation of obviousness.

In the second paragraph on page 6 of the Examiner's Answer, the Examiner refers to the "potential to create" the claimed circuit is accomplished by the Stumpmeier components that are disclosed for that purpose. If such were the case, the Examiner would be able to specifically identify and arrange the various components (presumably distributor modules) in a manner that would be alleged to create the claimed combination. Without illustrating or describing a combination of the Stumpmeier components that specifically provide the claimed combination demonstrates the impropriety of the rejection. Additionally, some reason for creating that circuit must be apparent from the Stumpmeier patent to establish a *prima facie* case of obviousness.

Dependent Claims

Relative to the dependent claims, the Examiner merely states that *pro forma* arguments have been presented. However, no specific application of the Stumpmeier disclosure to those dependent claims is present. This failure to provide this comparison demonstrates that no *prima facie* case of obviousness exists, and leaves Applicant-Appellant to guess at the specific

application of this patent to the claimed features. Although the Examiner relies on 37 C.F.R. §1.04(c)(2) for stating that the rejections comply with the rules, such rule specifically provides


“...When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified.”

In these rejections, the parts of the cited patent relied upon are not adequately designated and the pertinence of the Stumpmeier patent is not clearly explained relative to each rejected claim, as required by the cited rule.

Conclusion

For the reasons presented in the Brief on Appeal and above, Applicant-Appellant submits that the rejection of the claims under 35 U.S.C. §103 is untenable, and requests that this rejection be reversed.

Respectfully submitted,



Mark S. Bicks
Reg. No. 28,770

Roylance, Abrams, Berdo & Goodman, LLP
1300 19th Street, NW
Washington, DC 20036
(202) 659-9076

Dated: July 13, 2009